IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Misc. Application No. 76/2001

(Old No. 2069/1994)

Sukhvinder Singh S/o Balwant Singh

R/o Lalpur Nayak, P.S. Haldwani,

District Nainital …Petitioner.

Vs.

State and another ..Respondents.

AND

Criminal Misc. Application No. 77/2001

(Old No. 2068/1994)

Har Prit Singh @ Puppy,

S/o Kehar Singh

R/o Udai Lalpur P.S. Haldwani

District, Nainital .. Petitioner.

Vs.

State and another .. Respondents

Hon'ble Irshad Hussain, J.

Heard Sri I.S. Mehra learned counsel for the petitioners and Sri G.S. Sandhu learned A.G.A. for the state.

2- Both these petitions under section 482 of the Code of Criminal Procedure (for short 'Code') have been preferred for quashing of the charge sheet in case crime no. 1106/1993 under section 3 read with section 2(i) (xi) of the U.P. Gangsters And Anti-Social Activities (Prevention) Act, 1986.

3- Both the petitioners were involved in criminal cases. The petitioner Sukhvinder Singh was involved in criminal cases arising out of case crime No. 475/1992 under section 325 I.P.C. P.S., Haldwani district,Nainital and case crime No. 675/1991 under sections 379, 411, 353 I.P.C. and section 26 of the Forest Act of the same police station. After trial both these criminal cases have terminated in acquittal of the said petitioner as is evident from the judgments, Annexures-2 and 3 of petition no. 76/2001. The other petitioner Har Prit Singh was nominated as one of the accused in the charge-sheet of

case crime No. 675/1991 under sections 353, 379, 401 I.P.C. and section 26 of the Forest Act and he also been acquitted after trial of the criminal case per judgment dated 16-1-1993 (Annexure-2 of petition No. 77/2001). As submitted by the learned counsel for the petitioners these two petitioners were arraigned as the accused under the Gangsters Act only on account of these criminal cases and which have resulted in acquittal of both of them. There was no other criminal activity involving these petitioners which may bring their case within the purview of sub clause (i) and (xi) of section-2 of the said Act and therefore the petitioners can not safely be said to belong to a 'gang' as defined under section 2(b) of the Gangsters Act. The powers under section 482 of the 'Code' are normally exercised to advance the cause of the justice and since the petitioners have been acquitted of the charges in criminal cases the justice demand that they should not be prosecuted for offence under the Gangsters Act.

4- For the reasons aforesaid and in order to advance the cause of justice both thepetitions are allowed and the charge sheet No. 544/1993 dated 8-12-1993, case crime No. 1106/1993 under section 3 read with section 2(i)(x) of the U.P. Gangsters And Anti Social Activities (Prevention) Act, 1986 of P.S. Haldwani, district Nainital is hereby quashed against these two petitioners Sukhvinder Singh and Har Prit Singh.

(Irshad Hussain, J.)

Dated: 19-12-2003

ISB